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## Executive Summary

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On Sept. 2, 2001, Lieutenant Governor Bill Ratliff issued six charges to the Senate Finance Committee including the charge to:

*review the sources of revenue dedicated to the Crime Victims Compensation Fund and the purposes for which that Fund is expended. The Committee's report should recommend ways to ensure future revenues adequately address statutorily provided spending priorities.*

On Oct. 24, 2001, Senator Rodney Ellis, Chair, Senate Finance Committee, announced the creation of the Subcommittee on Crime Victims Compensation, appointing Senator John Whitmire as chair, and issued the following interim charges corresponding to Charge Five (*see Appendix A*):

1. *Assess revenue sources and distribution of proceeds in the Compensation to Victims of Crime Fund.*
2. *Review other states' victim services programs.*
3. *Analyze whether counties are properly collecting and reporting court costs and fees, and evaluate methods to improve court cost collections.*
4. *Determine if further evaluation would be warranted in the area of consolidating state victim services programs.*

The subcommittee held public hearings related to the interim charges on April 16, 2002, and July 9, 2002 (*see Appendix B*). The Office of the Attorney General (OAG) provided substantial assistance during the Committee's interim work. The subcommittee also relied heavily on input from agencies and programs currently receiving funding from the Crime Victims Compensation Fund (CVC Fund) as well as the advocacy groups representing victims of violent crime. The Comptroller of Public Accounts (Comptroller), Office of Court Administration (OCA), Legislative Budget Board (LBB), and State Auditor's Office (SAO) provided extensive input during the review.

This report includes details on the revenue sources and expenditures of the CVC Fund, projections on the solvency of the CVC Fund, a review of other states' crime victim compensation programs, a discussion of the collection of court costs, and a review of the crime victim services and rights in Texas.

### ***Background Information***

In 1979, the Crime Victims Compensation Act (S.B. 21, 66th Leg.; Art. 56.31, Code of Criminal Procedure) was enacted to establish eligibility guidelines and to provide reimbursement of expenses to victims of crime in Texas. The CVC Fund was created to provide a stable and constitutionally dedicated source of funding to deliver services to and assist victims of crime.

In 1989, Texas voters amended the Texas Constitution to include the Rights of Crime Victims in Article 1, §30 - Bill of Rights. Voters amended the Constitution, again, in 1997 to specify that money deposited in the CVC Fund was to provide only for delivering or funding victim-related compensation, services, or assistance (Article 1, §31, Texas Const.).

### ***Crime Victims Compensation Fund***

In 1993, the Texas Legislature (H.B. 2178, 73rd Leg.; Art. 56.55, Code of Criminal Procedure) increased the court costs payable to the CVC Fund. Without a corresponding increase in distributions from the CVC Fund, the cash balance grew steadily after 1994. In accordance with §404.071 of the Government Code, the interest generated by the investment of the CVC Fund accrues to the General Revenue Fund. The Comptroller reports that state funds are currently earning a 3.48% return.

As state resources diminished and the need to free up general revenue for other purposes increased, the balances accumulating in the CVC Fund provided a source of alternative funding. Several new laws were passed that increased payments to victims and allowed the use of CVC funds for victim-related services through direct appropriation to state agencies and through grants and contracts to nonprofit organizations, law enforcement, and other service providers.

In 1997, the 75th Legislature passed three significant pieces of legislation that impacted the CVC Fund. H.B. 3062 increased the amounts of awards and types of benefits covered for crime victims and amended Art. 56.54, Code of Criminal Procedure, to allow funding for the Crime Victims Institute (Chapter 412, Government Code) from the CVC Fund. S.B. 987 allowed the Legislature to appropriate excess money in the CVC Fund to state agencies providing victim-related services or assistance and allowed the OAG to use excess money in the CVC Fund for

contracts and grants supporting victim-related services or assistance (Art. 56.541, Code of Criminal Procedure). S.J.R. 33 dedicated the CVC Fund to be used for delivering or funding victim-related compensation, services, or assistance (Article 1, §31, Texas Const.).

In 1999, the 76th Legislature provided for reimbursement of relocation expenses for victims of domestic violence from the CVC Fund (H.B. 3255, Art. 56.32(9)(H), Code of Criminal Procedure) and authorized the OAG to use CVC Funds for grants or contracts for legal services to victims of crime (H.B. 3324, Art. 56.541(e), Code of Criminal Procedure).

In 2001, the 77th Legislature continued to expand the use of the CVC Fund. H.B. 131 authorized the OAG to use the CVC Fund to reimburse law enforcement agencies for the cost of a medical examination for a victim of an alleged sexual assault (Art. 56.54 (k), Code of Criminal Procedure). S.B. 850 provided for the use of the CVC Fund for additional income payments to certain peace officers who are totally disabled as a result of criminally injurious conduct that occurs while performing enforcement duties. (Art. 56.542, Code of Criminal Procedure). S.B. 1202 increased the additional payment to victims with permanent disability from \$50,000 to \$75,000 (Art. 56.42(b), Code of Criminal Procedure).

In the 1998-99 biennium, the Legislature made its first appropriation from the CVC Fund to the OAG for Court Appointed Special Advocates (CASA) and to the Department of Human Services (DHS) Family Violence Program. The Crime Victims Institute also received its first appropriation from the CVC Fund.

In the 2000-01 biennium, the Legislature appropriated CVC Funds to the OAG for sexual assault prevention and crisis services, victim assistance coordinators and victim liaisons, and children's advocacy centers. The 76th Legislature also changed the method of finance from the General Revenue Fund to the CVC Fund for the Texas Department of Criminal Justice (TDCJ) Victim Services Division and the TDCJ Battering Intervention and Prevention Project (BIPP).

In the 2002-03 biennium, legal services grants, a statewide victim notification system, foster care courts, child protective services, and adult protective services were appropriated money from the CVC Fund. The OAG also received a \$20 million appropriation from the CVC Fund for the Victims Assistance Discretionary Grants (VADG) program.

Due to funding of new programs, increases to existing programs, and a change in the method of finance from general revenue to the CVC Fund, appropriations from the CVC Fund for the 2002-03 biennium increased by \$149 million over estimated expenditures in the 2000-01 biennium. Consequently, the CVC Fund balance at the end of the 2002-03 biennium is estimated to be \$201 million compared to the cash balance of \$269 million at the end of the 2000-01 biennium.

<b>Table 1 - Comparison of Appropriations From the CVC Fund for the 2000-01 and 2002-03 Biennia</b>			
<b>Programs</b>	<b>2000-01 Biennium</b>	<b>2002-03 Biennium</b>	<b>Growth</b>
Department of Protective and Regulatory Services	\$ 2,749,516	\$ 31,965,418	1063 %
Department of Human Services	8,600,000	30,712,664	257 %
Department of Criminal Justice	4,700,000	5,380,664	14 %
Office of Court Administration	0	2,150,000	0 %
OAG - Grants	9,249,516	49,873,044	439 %
OAG - Other programs	0	7,149,690	0 %
OAG - CVC Program	87,804,952	136,503,728	55 %
OAG - Crime Victims Institute	841,921	685,960	-19 %
<b>Total</b>	<b>\$ 113,945,905</b>	<b>\$ 264,421,168</b>	<b>132 %</b>

SAO Report No. 02-065

While direct payments to victims remain the largest expenditure from the CVC Fund, continued use of the CVC Fund for other victim-related services and programs has lowered the CVC Fund balance. If annual expenditures continue to exceed annual deposits, it is projected that the CVC Fund could become insolvent in less than ten years. *(For additional information on the solvency of the CVC Fund, refer to pages 12-13 and Appendix C.)*

### ***Other States Crime Victims Compensation Programs***

Every state administers a crime victims' compensation program to provide financial assistance to victims of both federal and state crimes. Most programs have similar eligibility requirements, offer a comparable range of benefits, and provide funding as a payer of last resort. Thirty-two states have passed constitutional amendments protecting victims' rights.

The typical compensation program requires victims to report crimes to law enforcement within three days of the offense and to file claims within a fixed period of time (usually two years). Most states can extend these time limits for good cause. More than four-fifths of the states

receive the bulk of their funding from fees or charges assessed on offenders.

### *CVC Court Cost Collections*

The subcommittee received input from the Office of Court Administration (OCA) and various county and city representatives in the review of court cost collections. The subcommittee also monitored the work of the Senate Jurisprudence Committee, chaired by Senator Royce West, which was charged with improving the collection, dispersal, and accounting of court costs, fees, and fines by state and local entities. The Jurisprudence Committee reviewed all court costs and fees, except those related to the CVC Fund, to ensure that they are necessary and are adequately fulfilling their intended purpose.

### *Crime Victims Services*

Since the passage of the Crime Victims Compensation Act in 1979 (S.B. 21, 66th Leg.; Art. 56.31, Code of Criminal Procedure), Texas has continued to expand the programs and services offered to victims of violent crime. Despite a reduction in violent crime, the Texas CVC program has seen significant increases in the number of applications for reimbursements from the CVC Fund. Due largely to increased public awareness and outreach, the OAG has experienced a 50% increase in applications from 15,961 in FY 1998 to 23,920 in FY 2001.

Reimbursement of expenses is a crucial step in the recovery process for crime victims and their families. Texas provides higher award maximums and covers more expenses than many other states and continues to make improvements in the CVC program.

The increased cap for catastrophic claims from \$50,000 to \$75,000 (S.B. 1202, 77th Leg.; Art. 56.42(b), Code of Criminal Procedure) will make a big difference to those victims left permanently disabled. Reimbursement to local law enforcement for sexual assault examinations (H.B. 131, 77th Leg.; Art. 56.54(k), Code of Criminal Procedure) and benefits for disabled peace officers (S.B. 850, 77th Leg.; Art. 56.542, Code of Criminal Procedure) were additional benefits funded by the 77th Legislature.

Increases in funding for family violence and sexual assault programs have led to improvements in the delivery and availability of services. However, service providers and advocates continue to identify and address gaps in victim services including expansion of programs to rural areas of the state, programs for the elderly and disabled, and programs to address new and emerging crimes.

The State of Texas has continued to improve the services and benefits available to crime victims and their families. An effective crime victim service program must ensure adequate levels of reimbursement to victims and their families; effective delivery of services to crime victims across the state, and continued education and training of service providers.

### *Crime Victims' Rights*

While the subcommittee was not directly charged with reviewing the rights granted to victims of violent crime, victims' rights, including the right to information about the CVC Program, are an integral part of the recovery process. Victims' advocacy groups in Texas have led the nation in their efforts to enhance and protect the rights of crime victims and have been instrumental in efforts to protect the solvency of the CVC Fund.

Victims' knowledge and access to the judicial system and criminal justice system have been expanded. Education of law enforcement, the courts, and other parties have helped to improve the understanding and enforcement of victims' rights.

## Crime Victims Compensation Fund

The subcommittee held its first hearing on April 16, 2002 to focus on the sources of revenue and the expenditures from the CVC Fund. Extensive discussions focused on the projections of when the CVC Fund could become insolvent.

The subcommittee received testimony from the LBB and the OAG on the revenue and expenditures from the CVC Fund and the projected insolvency of the CVC Fund. The Texas Municipal League (TML), OCA, and representatives from county and municipal courts provided testimony on court costs and efforts to improve collections.

### Revenue Sources

State revenue makes up more than 86% of the annual deposits in the CVC Fund (estimated fund revenues provided by the OAG to the Conference Committee). The largest source of revenue is from court costs collected by municipal, county, district and justice courts on felony and misdemeanor convictions. *(For additional discussion on improving court costs collections, see pages 16-18.)* The remaining state deposits into the fund are from parole fees, restitution, subrogation, and grants and donations.

<b>Table 2 - Comparison of State Revenue Received in Appropriation Years</b>				
<b>Fiscal Year</b>	<b>Court Costs/Fees</b>	<b>Other</b>	<b>Total State Revenue</b>	<b>Growth</b>
1997	\$ 76,575,771	\$ 1,611,184	\$ 78,186,955	
1998	\$ 62,359,190	\$ 1,878,904	\$ 64,238,094	- 17.8 %
1999	\$ 68,925,211	\$ 2,571,679	\$ 71,496,890	11.3 %
2000	\$ 73,296,004	\$ 3,056,288	\$ 76,352,292	6.8 %
2001	\$ 75,367,758	\$ 3,323,938	\$ 78,691,696	3.1 %
2002	\$ 75,237,567	\$ 3,474,258	\$ 78,711,825	0.03 %

Office of the Attorney General

The Federal Victims of Crime Act (VOCA) Crime Victims fund (Chapter 112, Title 42, U.S. Code) provides another 14% of annual deposits in the CVC Fund. States are only allowed to spend 5% of the VOCA grant for administrative purposes (§10602(a)(3), Chapter 112, Title 42, U.S. Code).

VOCA compensation grants are provided to help with the financial assistance provided to victims and are based on a percentage of the amount a state spent on victims of crime two years before the year of the grant. Currently, the federal government provides states an annual grant equal to 40% of the total amount awarded to victims during the preceding fiscal year (§10602(a)(3), Chapter 112, Title 42, U.S. Code).

The federal financial participation increases to 60% in federal fiscal year 2003 (U.S. Department of Justice, Office for Victims of Crime). An increase in VOCA compensation grants does not free up state CVC money for other services since federal funding is based on what a state pays out in direct compensation to victims.

In addition, each state receives \$500,000 annually in VOCA victim assistance grants and is eligible for additional assistance grants based on population. States competitively award VOCA assistance grants to local service providers for victim crisis intervention, advocacy, and social service needs. VOCA assistance funds may only be used for direct services to crime victims. States are required to give priority to under-served victims and victims of domestic violence, sexual assault, and child abuse. VOCA assistance grants cannot be used to supplant state and local funds (§10603, Chapter 112, Title 42, U.S. Code). Services such as offender rehabilitation, criminal justice improvements, and crime prevention cannot be supported with VOCA assistance funds (Victim Assistance Grant Program Guidelines, Office for Victims of Crime, U.S. Department of Justice).

Similar to what has occurred at the state level in Texas, many federal agencies are seeking VOCA funds to support their victim-related programs. In addition, deposits in the VOCA Fund are lagging behind the record highs experienced in 1999 and 2000. While the OAG expects an increase in VOCA compensation grants due to an increase in payments to victims of crime, further use of VOCA funds at the federal level and a continued slow down in deposits could potentially reduce the amount available to states in VOCA assistance grants.

Table 3 depicts the growth in federal VOCA grants to Texas from FY 1997 to FY 2002. As illustrated, federal deposits in the CVC Fund can fluctuate from year to year.

<b>Table 3 - Growth in Federal VOCA Grants</b>		
<b>Fiscal Year</b>	<b>Federal Revenue</b>	<b>% Growth</b>
1997	\$ 11,798,000	
1998	\$ 8,352,909	- 29.2 %
1999	\$ 8,515,000	1.9 %
2000	\$ 8,795,225	3.3 %
2001	\$ 12,700,000	44.4 %
2002	\$ 14,691,866	15.7 %

Office of the Attorney General

**Distribution of Proceeds**

Only the Crime Victims Compensation Program (payment of claims and operation of the CVC Act) and the Crime Victims Institute are required to receive appropriations from the CVC Fund (Art. 56.54(b), Code of Criminal Procedure). Excess money in the CVC Fund, after funding the CVC program and Crime Victims Institute, may be appropriated for a variety of victim-related services.

<b>Calculation of Excess Money</b>
Projected ending CVC Fund balance (current biennium)
+ State revenues projected for next biennium less grants, gifts, etc.
- 1.2 x Crime Victims Institute expenditures projected for next biennium
- 1.2 x Crime Victims Compensation Program expenditures for next biennium
<hr/>
= Excess Money

Art. 56.541, Code of Criminal Procedure

The OAG may retain up to \$10 million in emergency reserves for the next fiscal year if there is excess money in the CVC Fund after all compensation payments have been made. The emergency reserve fund may only be used in incidents of mass violence or international terrorism (Art. 56.54(I), Code of Criminal Procedure).

Excess funds may also be used to administer the associate judge program under Subchapter C, Chapter 201, Family Code and to reimburse law enforcement agencies for the cost of sexual assault examinations (Art. 56.54(j)&(k), Code of Criminal Procedure).

The Legislature may appropriate excess amounts in the CVC Fund to state agencies that deliver or fund victim-related services or assistance. The OAG may use money appropriated from the CVC Fund for grants or contracts supporting victim-related services or assistance including civil legal services (Art. 56.54(c)&(e), Code of Criminal Procedure).

The OAG receives the majority of the money appropriated annually from the CVC Fund to pay for direct assistance to victims. The OAG is also granted an annual appropriation from the Fund to support victim-related services and assistance. An audit released in August 2002 by the SAO (SAO Report No. 02-065) concluded that the OAG “generally spends appropriated funds in accordance with state laws from the General Appropriations Act and with Comptroller of Public Accounts regulations. However, the Office needs to ensure that grantees, contractors, and award recipients are spending court costs and fees for intended purposes.”

Based on statutory authority, the Legislature may appropriate funds to other agencies that provide services to victims of crime. Four other state agencies receive a direct appropriation from the CVC Fund: the Texas Department of Criminal Justice (TDCJ), Texas Department of Human Services (DHS), Texas Department of Protective and Regulatory Services (DPRS), and the Office of Court Administration (OCA). *(For a detailed discussion of the services and programs receiving CVC funds see pages 19-23.)*

In the 2002-03 biennium, the Legislature appropriated \$20 million for a first time Victim Assistance Discretionary Grant (VADG) program to fund local and state victim-related services. The OAG also allocated \$4.8 million in unexpended balances from the crime victim payment appropriation for a total VADG program budget of \$24.8 million.

The OAG received 294 applications for VADG funding for a total of \$37.4 million. For the 2002-03 biennium, competitive awards totaling \$14.7 million were given through 127 grants and 43 contracts in 84 counties across the state. An additional \$2.2 million in one-time awards were given to the University of North Texas DNA database (S.B. 1304, 77th Leg.) and a pilot project at DPRS child protective services case workers (S.B. 962, 77th Leg.). Noncompetitive awards totaling \$8.4 million were given to public awareness programs on family violence and sexual assault, increased funding for family violence programs at DHS, and increased funding for the Texas Victim Assistance Academy. *(See Appendix D for a list of the 2002-03 VADG expenditures.)*

The August 2002 SAO Report (SAO Report No. 02-065) recommended that the OAG ensure compliance with the Texas Administrative Code when administering the VADG program to ensure grantees are conducting their grant programs in the manner prescribed.

Table 4 shows the 2002-03 projected expenditures for all state agencies receiving CVC Funds.

<b>Table 4 - 2002-03 Projected Expenditures from the CVC Fund</b>		
<b>Office of the Attorney General (OAG)</b>	<b>2002/03 Projected Expenditures</b>	<b>% of Allocation from CVC Fund</b>
Crime Victims Compensation Program	\$78,237,170	36.7%
Victim Assistance Discretionary Grants (VADG)	\$24,800,000	11.6%
Sexual Assault Prevention and Crisis Services	\$9,193,600	4.3%
Children's Advocacy Centers	\$8,103,308	3.8%
Victim Notification System	\$7,149,690	3.4%
Legal Services Grants	\$5,000,000	2.3%
Victim Assistance Coordinators and Liaisons	\$4,811,816	2.3%
Court Appointed Special Advocates	\$4,000,000	1.9%
Sexual Assault Services Program Grants	\$801,894	0.4%
Crime Victims Institute	\$614,660	0.3%
<b>Subtotal, Programs Funded at OAG</b>	<b>\$142,712,138</b>	<b>67.0%</b>
<b>Programs Funded at other State Agencies</b>		
Family Violence Services (DHS)	\$30,712,664	14.4%
Foster Care Payments (DPRS)	\$28,482,708	13.4%
Adult Protective Services (DPRS)	\$3,482,710	1.6%
Victims Services Division (TDCJ)	\$2,880,664	1.4%
Battering Intervention and Prevention Program (TDCJ)	\$2,500,000	1.2%
Foster Care Courts (OCA)	\$2,150,000	1.0%
<b>Subtotal, Programs Funded at Other Agencies</b>	<b>\$70,208,746</b>	<b>33.0%</b>
<b>Total, All Programs Funded from CVC Fund</b>	<b>\$212,920,884</b>	<b>100.0%</b>

Office of the Attorney General

**Projections of Insolvency**

Since the Legislature authorized a substantial increase in court costs dedicated to the CVC Fund in 1993 (H.B. 2178, 73rd Leg.; Art. 56.55, Code of Criminal Procedure), the fund balance has grown steadily. From 1994 to 2001, the fund balance grew by more than \$30 million annually. At the end of FY 2001, the CVC Fund balance reached its peak at \$269 million. In contrast, the balance at the close of FY 2002 was down approximately \$27 million to \$242 million.

<b>Table 5 - Growth in CVC Fund Balance</b>			
<b>Fiscal Year</b>	<b>Fund Balance</b>	<b>Fund Growth</b>	<b>% Growth</b>
1993	\$ 5,374,726		
1994	\$ 20,679,609	\$ 15,304,883	284.8 %
1995	\$ 58,774,017	\$ 38,094,408	184.2 %
1996	\$ 93,515,938	\$ 34,741,921	59.1 %
1997	\$ 128,653,140	\$ 35,137,202	37.6 %
1998	\$ 167,882,912	\$ 39,229,772	30.5 %
1999	\$ 205,351,021	\$ 37,468,109	22.3 %
2000	\$ 234,869,464	\$ 29,518,443	14.4 %
2001	\$ 269,461,671	\$ 34,592,207	14.7 %
2002	\$ 241,890,448	\$ -27,571,223	- 10.2 %

Comptroller of Public Accounts

The FY 2002-03 appropriation reflects an increase of \$149 million in expenditures from the CVC Fund compared to the 2000-01 biennium (S.B. 1, 77th Leg.). This increase in expenditures is attributable to: increased funding for existing programs (\$66 million); funding for new programs (\$32 million); and changes in method of finance for existing programs (\$51 million).

Due to the expanded use of the CVC Fund over the past several biennia, the OAG is projecting the CVC Fund will become insolvent by 2008 or 2011. The difference in the date for projected

insolvency is based on whether some items funded during the 2002-03 biennium were one time expenditures or will continue to receive funding beyond the current biennium. (*Table 6 shows the list of optional funding items.*) While there is no specific legislative direction, the DNA database and the DPRS caseworker project have been assumed to be one-time appropriations.

<b>Table 6 - Optional Funding Items</b>	
<b>Optional Funding Items</b>	<b>Biennial Cost</b>
DPRS foster care payments	\$31,965,418
University of North Texas DNA Database (S.B. 1304, 77th Leg.)	\$802,140
DPRS Caseworker training and retention project (S.B. 962, 77th Leg.)	\$1,300,000
Use of unexpended balance at another state agency*	\$16,071,587

Office of the Attorney General

(\* The OAG has identified an unexpended balance of \$16,071,587 in the 2002-03 biennium. Should that money be appropriated to another agency, it would be a one-time reduction from the cash balance.)

The OAG forecast assumed no reduction in fees from court costs, no unexpended funds at other state agencies receiving CVC funds, and a slight increase in federal funds. The OAG also assumed a zero growth in revenue from court costs.

As stated earlier, the Code of Criminal Procedure allows appropriations to other victim-related services and programs only after funding is assured for the two primary programs: the CVC Program and the Crime Victims Institute. Barring an unforeseen increase in victim claims or a significant decrease in revenue from court costs or federal VOCA grants, the primary programs are not at risk of losing their funding.

The SAO projects that state revenue would have to grow by 6.76 % each year for the next nine years to support the anticipated level of funding needed to cover existing appropriations through fiscal year 2011. However, court costs which comprise the largest portion of CVC Fund deposits have only grown at approximately 4 % per year for the last two years (SAO Report No. 02-065).

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## Other States' Victims Assistance Programs

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Every state administers a crime victims' compensation program to provide financial assistance to victims of both federal and state crimes. All states operate as a payer of last resort. Most programs have similar eligibility requirements and offer a comparable range of benefits. Thirty-two states have passed constitutional amendments protecting victims' rights.

The typical compensation program requires victims to report crimes to law enforcement within three days of the offense and to file claims within a fixed period of time (usually two years). Most states can extend these time limits for good cause.

Maximum benefits available to victims generally range from \$10,000 to \$25,000, though a handful of states have higher maximums. A few states allow for extra benefits in homicides or catastrophic injury cases. Texas has a maximum award limit of \$50,000, with up to an additional \$75,000 for permanent injuries. Only three states have higher base limits than Texas -- California at \$70,000, New York has no limit on medical payments, and Washington has a \$150,000 medical limit. Only three states (Hawaii, Rhode Island, and Tennessee) pay for pain and suffering associated with the crime. Table 6 shows a sample of the expenses covered by various state crime victim compensation programs.

California is the largest program in the country, paying out about a third of the total benefits paid by all programs combined. California awards over \$90 million annually, while the next largest program, Texas, pays out over \$40 million each year. The OAG projects CVC payouts to victims will increase steadily reaching over \$70 million a year by FY 2008.

The median annual payout per state is about \$2 million, but the range is considerable, with nine of the smallest states paying less than \$500,000 annually, and 13 states paying more than \$5 million. Colorado and Arizona are unique in operating compensation programs through local prosecutors' offices. Twenty-two compensation boards in Colorado and 15 boards in Arizona adjudicate claims under state law.

More than four-fifths of the states receive the bulk of their funding from fees or charges assessed on offenders. The types and level of offender assessments vary somewhat from state to state. Many states require that offenders pay a set penalty or fee, such as \$50 per felony and \$25 per misdemeanor, into a crime victim compensation fund. Other states will take a certain percentage of the offender's fine, or place a surcharge upon that fine, and use it for compensation funding. Some states also gain income from wages inmates earn in prison industries.

<b>Table 7 - Comparison of Benefits Covered by Crime Victim Compensation Program</b>						
<b>State</b>	<b>Maximum</b>	<b>Mental Health</b>	<b>Lost Wages/ Support</b>	<b>Funeral Expenses</b>	<b>Moving Expenses</b>	<b>Attorneys fees</b>
Texas	\$ 50,000; additional \$75,000 for catastrophic injury	\$3000 maximum	\$500 per week	\$5,500 maximum; up to \$1,500 for misc. costs	\$2000/relocation; \$1800/rent for domestic violence and sexual assault victims	25% of the award or \$300 if no appeal
California	\$ 70,000	\$10,000 maximum	2-3 years	\$ 7,500 maximum	\$ 2,000 maximum	Lesser of 10% of award or \$500
Florida	\$ 25,000; additional \$25,000 for catastrophic injury	\$2,500/adults \$10,000/ minor victims \$2,500/ child witnesses	\$2,500	\$5,000 maximum	\$1,500 for domestic violence victims with \$3,000 lifetime maximum	
New York	no maximum	no maximum	\$30,000 max.	\$6,000 maximum	if medically necessary	\$1,000 maximum
Washington	\$150,000 for medical	30 sessions adults; 40 sessions children	\$40,000 max.	\$6204.82 maximum		

National Association of Crime Victim Compensation Boards

Many states, including Texas, continue to increase maximum benefit levels, expand the list of eligible expenses, and lengthen time limits on covered expenses.

Appendix E shows a comparison of several states based on the data submitted to the federal government for fiscal year 2001. The number of applications is not a one-to-one comparison because in Texas, one application could be for several victims of the same crime. Other states require an application for each victim.

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## Court Cost Collections

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While the Senate Finance Committee was charged with reviewing the CVC Fund to ensure future revenues adequately address statutory spending priorities, the Senate Jurisprudence Committee was charged with making recommendations to improve the collection, dispersal, and accounting of court costs, fees, and fines by state and local entities.

When the OAG prepared estimates on the future solvency of the CVC Fund, they factored in a zero-growth in the amount collected from court fees. They also noted that deposits in FY 2002 were down in comparison to the same period of FY 2001. Given the importance of the stability and future solvency of the CVC Fund, the subcommittee monitored the work of the Senate Jurisprudence Committee to improve overall reporting and collection of court costs and fees.

Municipal, Justice of the Peace, County and District courts in Texas collect a wide variety of fees for numerous state funds, including courthouse security, crime victims' compensation, and court personnel training. (*See Appendix F for a list of various court costs and fees.*) They also collect a variety of local court costs and fines. As an incentive, local governments are allowed to keep 10% of the money collected if they remit the court costs to the Comptroller in a timely manner (Art. 56.56(c)), Code of Criminal Procedure).

Court costs and fees deposited in the CVC Fund represent approximately 95% of all state revenue for the Fund. Table 8 shows the amount of the CVC court cost assessed by type of conviction.

<b>Table 8 - CVC Court Costs by Type of Conviction</b>	
<b>Type of Conviction</b>	<b>Fee</b>
Felony Conviction	\$45
Misdemeanor Conviction punishable by imprisonment or a fine of more than \$500	\$35
Misdemeanor Conviction punishable by a fine of \$500 or less	\$15

Art. 56.55(a), Code of Criminal Procedure

Previous studies prepared by the OCA indicate that of the CVC court fees collected: 15% were derived from felonies and "jailable" misdemeanors (\$45/\$35 fee) and 85% were collected from "non-jailable" misdemeanors and violations of city ordinances (\$15 fee).

Over the years, local court administrators have argued that state court costs are difficult to administer and collect. They also contend that as state court costs increase, local revenue decreases because judges must take into account state costs when assessing an appropriate fine. In the case of partial payment, clerks must also pay state court costs first before the local entity can keep any of the fine revenue. The Texas Municipal League (TML) has testified at numerous hearings and submitted written testimony to the Senate Jurisprudence Committee on the adverse impact of state-mandated court costs on municipal courts.

Over the past decade, the Legislature has routinely created new state court costs and increased existing court costs to pay for various programs and services. The collection of court costs has continued to be a concern for court administrators, judges, and elected officials. Court-cost simplification proposals were included in each biennial Texas Performance Review (TPR) conducted by the Comptroller from 1993 to 1997.

In response to the 1997 TPR, the 75th Legislature passed legislation to consolidate eight state fees into one aggregated fee and directed the Comptroller to allocate the consolidated revenue to the programs supported by the fees. Fees included in the consolidated state court cost include Crime Stoppers, Breath Alcohol Testing, the Bill Blackwood Institute, Law Enforcement Officers' Standards and Education, Comprehensive Rehabilitation, Operators and Chauffeurs, Criminal Justice Planning, and Fair Defense (H.B. 2272, 75th Leg.). The CVC fee was not included in the consolidated court costs due to concerns by CVC Fund administrators that revenue levels could be adversely impacted.

In 1999, the 76th Legislature passed S.C.R. 12 requiring the Comptroller to develop strategies for increasing the efficiency and reducing the complexity of fee collection and dispersal by county and municipal clerks (S.C.R. 12, 76th Leg.). In March 2000, the Comptroller's report recommended consolidation of all state court costs and fees levied on criminal convictions including the CVC fee. Similarly, the Comptroller recommended all civil costs and fees in district courts be consolidated. (Issues and Recommendations Regarding the Structure of State Court Costs and Fees, Comptroller of Public Accounts, March, 2001)

In 2001, based on the Comptroller's study, the 77th Legislature authorized the SAO to review funds and accounts in which court costs are deposited to determine whether the funds are being used for their intended purposes and whether the court costs and fees are necessary and appropriate (S.B. 1377, 77th Leg.). Also in 2001, Texas voters approved a constitutional amendment requiring that if the Legislature consolidates municipal court fees, all future fees must conform to that consolidation (S.J.R. 49, 77th Leg.).

In May 2002, the SAO issued a report based on its review of various state court costs and fees. The report provided a more in-depth review of several funds, including the CVC Fund (SAO

Report No. 02-049). A follow-up report released in August 2002, cited the future insolvency of the CVC Fund due in part to little anticipated growth in revenue deposited into the Fund (SAO Report No. 02-065).

Under Art. 56.59 of the Code of Criminal Procedure, the attorney general is given the authority to ensure that CVC court costs are being assessed and collected. Specifically, the attorney general can issue a warning letter to a court or governing body if the attorney general believes that a court has not been assessing costs due to the CVC Fund or has not been making a reasonable effort to collect those costs (Art. 56.59(a), Code of Criminal Procedure).

If the court or governing body does not respond or if the attorney general considers the response inadequate, the attorney general may request the comptroller to audit the records of the court, collector of costs, or treasury of the governmental unit in which the court is located (Art. 56.59(c)), Code of Criminal Procedure).

If the attorney general finds that a court is not assessing costs due to the CVC Fund, the attorney general may refuse to award CVC compensation to residents served by the court or notify the State Commission on Judicial Conduct of the findings (Art. 56.59(e), Code of Criminal Procedure). Failure to comply with the collection of CVC court costs constitutes official misconduct and is grounds for removal of office (Art. 56.59(f), Code of Criminal Procedure).

The OAG has not had any reason to believe that the courts are not assessing the required CVC fee or making reasonable efforts to collect such fees; therefore, has not exercised the authority granted under Art. 56.59 of the Code of Criminal Procedure.

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## Crime Victims Services

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The subcommittee held its second hearing on July 9, 2002 to focus on the programs and services to victims of crime in Texas. The subcommittee was presented with information from each of the state agencies that receive a direct appropriation from the CVC Fund. The subcommittee also received public testimony from crime victim service providers and crime victims from across the state.

The following is a description of the victim assistance programs that currently receive an annual appropriation from the CVC Fund. (*The costs of these programs can be found on page 11, Table 4.*)

### Office of the Attorney General (OAG)

CVC Funds are statutorily required to fund the CVC Program and the Crime Victims Institute (Art. 56.54(b), Code of Criminal Procedure). While the use of CVC Funds has expanded over the years, the top priority and largest expenditure remains the direct reimbursement to victims of violent crime. The CVC Program, administered by the OAG, provides reimbursement to victims for certain expenses resulting from a crime. The CVC Program is a payer of last resort. Eligible expenses include medical bills, funeral expenses, counseling, lost wages, and relocation expenses for victims of domestic violence. (*See Appendix G for information on eligible expenses.*)

Since its inception, the CVC Fund has paid out more than \$400 million to victims of crime in Texas. As stated earlier, applications for reimbursements have increased nearly 50% from 1998 to 2002 and are projected to continue to increase both in numbers and amounts. While violent crime rates are down, increased knowledge of the CVC Program and enhanced outreach efforts by the OAG, service providers, crime victims' advocates, and law enforcement have led to an increase in applications for reimbursements.

The OAG also operates the Crime Victims Institute which is responsible for studying the impact of crime on victims and their families, developing policy recommendations for improving the treatment of victims by the criminal justice system, and gathering data related to victimization (Chapter 412, Government Code).

The Crime Victims Institute, which publishes an annual report, is currently reviewing local and state victim services programs, operating the Texas Victim Assistance Academy, updating a statewide data base list of victim assistance providers across the state, and providing consultation

on various research projects around the state and nation.

In addition to operating the CVC Program and the Crime Victims Institute, the 75th Legislature authorized the OAG to use money appropriated from the CVC Fund for grants or contracts supporting victim-related services of assistance (S.B. 987, 75th Leg.; Art. 56.541(e), Code of Criminal Procedure).

The OAG receives an annual appropriation from the CVC Fund to provide the following crime victims assistance:

*Victim Assistance Coordinators and Victim Liaisons* - 65 grants to local law enforcement agencies and prosecutors' office to fund victim coordinators and liaisons as required by statute (Art. 56.04, Code of Criminal Procedure). There are 181 counties that do not have a dedicated funding source for the mandated positions.

*Sexual Assault Prevention and Crisis Services Program* - funding and technical assistance to 71 sexual assault programs in the state. The program distributes training materials for law enforcement, medical personnel, and sexual assault staff and volunteers; provides protocol for the collection of sexual assault forensic evidence; and certifies sexual assault training programs and Sexual Assault Nurse Examiners. There are at least 100 counties whose residents are not receiving services in their own or a neighboring county.

*Sexual Assault Services Program Grants* - grants to the Texas Association Against Sexual Assault (TAASA) for the creation of new programs and to increase statewide training to local programs, law enforcement agencies and other victim services agencies. Special attention is given to rural sexual assault centers and related community agencies.

*Court Appointed Special Advocates* - through a contract with Texas CASA, Inc., funds help develop and support local CASA programs which provide court appointed advocates to protect the best interests of abused children in the legal and welfare systems. The OAG is authorized to contract with one statewide organization which has expertise in the dynamics of child abuse (Chapter 264, Family Code). There are currently 109 counties without a dedicated CASA program.

*Children's Advocacy Centers* - a contract with Children's Advocacy Center of Texas provides coordinated, multi-disciplinary response to cases of suspected child abuse. The OAG is authorized to contract with one statewide organization with expertise in establishing and operating children's advocacy center programs (Chapter 264, Family Code). 18% of the population is not currently served by a Children's Advocacy Center.

*Legal Services Grants* - contract with the Texas Supreme Court to provide a grant to the Texas Equal Access to Justice Foundation (TEAJF) for legal costs incurred by victims of crime. TEAJF has awarded grants to fund 23 programs across the state.

*Victim Information and Notification System (VINE)* - implementation of a statewide automated system at the county level to provide information to victims of a change in offender status for county prisoners or change in court date. The right to be notified of significant events in the criminal justice system is one of the most basic rights afforded to crime victims. The 77th Legislature mandated a pilot project for a victim notification system (H.B. 1572, 77th Legislative Session).

The funding continues the VINE program in the original five pilot counties (Childress, Collingsworth, Dallas, El Paso, and Harris) and begins implementation of a statewide notification system. The five pilot counties represent 37.8% of the state population and 46.7% of the crime incidents in the state (Texas Department of Public Safety, Index Crimes, 1999). While local counties are not mandated to participate, every effort is being made to provide local jurisdictions with the notification technology.

In the 2002-03 Appropriations Act, the OAG received a \$20 million biennial appropriation for a Victim Assistance Discretionary Grants (VADG) Program. An additional \$4.8 million in unexpended balances from the crime victim payment appropriation was included in the total VADG program budget. The VADG Program provides grants to various programs across the state for direct services to victims, training on victim services, public awareness, emergency funds for victims, and other victim-related services.

In the first round of VADG grants, the OAG set aside money for sexual assault projects across the state. For the remainder of the applicants, the OAG used a team of evaluators consisting of state employees and external victim service representatives. Applicants were funded in rank order based on the applicant's average score. The maximum amount per program was set at \$200,000 for local programs and \$350,000 for statewide programs. 176 programs received funding for the 2002-03 biennium. (*See Appendix D for a list of the programs funded through VADG.*)

#### Texas Department of Criminal Justice

The Texas Department of Criminal Justice (TDCJ) operates two programs with CVC funds. TDCJ also collaborates with the Crime Victims Institute and advocacy groups on improving victims rights in the criminal justice system.

The Victim Services Division keeps victims informed of an offender's status after conviction and

sentencing to TDCJ (Art. 56.11, Code of Criminal Procedure). The Victim Services Division also operates the Crime Victim Clearinghouse (Art. 56.14, Code of Criminal Procedure) to serve as a central source of information about services and issues involving crime victims in Texas. Victim/offender mediation (Art. 56.13, Code of Criminal Procedure), victim impact panels, and prison tours are also funded through the Division.

As mandated, TDCJ operates the Battering Intervention and Prevention Program (BIPP) by providing grants to local nonprofit organizations for treatment and educational services to batterers referred by the courts for treatment (Art. 42,141, Code of Criminal Procedure). The BIPP Program is designed to help the batterers stop their abusive behavior and end the cycle of abuse. This program is not funded with federal funds from VOCA.

#### Texas Department of Human Services

The Texas Department of Human Services (DHS) receives CVC money to contract for family violence services such as emergency day shelter, 24-hour hotline, children's services, employment and training, legal assistance, counseling, transportation, community education, and information and referral services.

#### Texas Department of Protective and Regulatory Services

The Texas Department of Protective and Regulatory Services (DPRS) receives an appropriation from the CVC Fund for two programs providing services to victims of crime. The Foster Care Program provides benefit payments to foster care providers who care for abused and neglected children who have been removed from their homes. In FY 2000, 20,832 children received foster care services; 26.9% of these children were confirmed victims of physical or sexual abuse. The FY 2002-03 appropriation from the CVC Fund was based on the 7.3% of children that were confirmed victims of physical or sexual abuse and had parental rights terminated. These children are in permanent managing conservatorship of DPRS.

DPRS uses CVC funds in Adult Protective Services to investigate reports of abuse, neglect, and exploitation of elderly persons and adults age 18-64 with disabilities. The funds also go to services to remedy or prevent future abuses. In FY 2000, there were 33,978 confirmed cases of in-home abuse, neglect, or exploitation perpetrated against vulnerable adults in Texas; 6.8% involved confirmed cases of physical or sexual abuse. The FY 2002-03 appropriation for Adult Protective Services included \$3.5 million from the CVC Fund based on the 6.8% confirmed victims of physical or sexual abuse.

Office of Court Administration

The Office of Court Administration (OCA) is appropriated CVC funds for Foster Care Courts. The Courts are designed to reduce the time children spend in temporary foster care by expediting the judicial administration of child abuse and adoption cases (Chapter 201, Family Code). The program provides for the operation of 16 Specialized Foster Care Courts, including the salaries of judicial court masters and assistants for the 16 Courts. Only 5 of the courts are funded with CVC funds.

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## Crime Victims' Rights

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While the interim charge focused on the source of revenue and expenditures of the CVC Fund, crime victims' rights, including the right to information on the CVC Program, are integral in recovery process for victims of violent crime.

According to recent surveys and studies conducted by the Crime Victims Institute, Office of Court Administration, and the State Bar of Texas, victims are not always informed of or afforded their rights or may be informed of their rights too late in the process to participate.

Article I, Section 30 of the Texas Constitution grants many rights to crime victims, including:

- the right to be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process; and
- the right to be reasonably protected from the accused throughout the criminal justice process; and
- the right to notification of court proceedings; and
- the right to be present at all public court proceedings related to the offense, unless the victim's testimony would be materially affected if the victim hears other testimony at the trial; and
- the right to confer with a representative of the prosecutor's office; and
- the right to restitution; and
- the right to information about the conviction, sentence, imprisonment, and release of the accused.

Chapter 56 of the Code of Criminal Procedure grants additional statutory rights, including the right to be notified of available crime victims compensation; to have an employer notified of the proceedings; and to present a victim impact statement before sentencing or plea bargain agreement is offered. Chapter 57 of the Family Code grants similar rights to the victims of juvenile crime.

In addition to any fine authorized by law, Texas courts are required to order restitution in each case unless a written order explaining why restitution should not be granted is entered by the

court. A defendant may be ordered to reimburse the CVC Fund for monies paid on behalf of the victim. If a victim receives both restitution and an award from the CVC Fund, the victim is required to reimburse the CVC Fund in amount equal to the court ordered restitution.

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## Conclusion

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The State of Texas is committed to its mandate to provide assistance to victims of violent crimes. To ensure the future viability of crime victims services, the Senate Finance Committee was charged with reviewing the CVC Fund and making recommendations to ensure its solvency.

While no amount of money can erase the trauma and grief victims and their families suffer, crime victims' assistance can be instrumental in the recovery process. Restoring physical and mental health, covering expenses, and replacing lost income are crucial in a victim's ability to rebuild their lives.

Despite a decrease in violent crime, applications and award amounts continue to grow. The increase in applications is largely attributable to expanded outreach and public education efforts about the existence of the CVC Fund.

Texas must continue its efforts to operate a stable CVC Program while exploring ways within available funds to expand the list of expenses eligible for reimbursement, increase award amounts, and improve public outreach.

Given the constitutional and statutory requirement to provide benefits to victims of crime, not to mention the difference the assistance has made to thousands of Texas lives and families, the 78th Legislature should consider the following: 1) increasing revenue sources through increased collections, 2) protecting the spending priorities defined in statute, 3) ensuring any programs and services funded through grants and direct appropriations are providing adequate and effective assistance to crime victims in Texas.

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## **Recommendations**

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### **CVC Fund**

The Legislature should consider setting a policy for a target minimum balance in the CVC Fund to ensure its future solvency.

The Legislature should review the programs receiving an appropriation from the CVC Fund to ensure each program meets the statutory and constitutional restrictions on the use of the CVC Fund. If a program continues to provide essential services but is deemed inappropriate for CVC funds, the Legislature should consider replacing that funding with another source of revenue.

The Legislature should evaluate the effectiveness of the Victim Assistance Discretionary Grant (VADG) Program. Continuation of VADG should be based on the stability of the CVC Fund. If the Legislature continues the VADG program, grant applications should be funded based on clearly defined criteria and expectations. Any funds appropriated for the VADG Program should be used within that biennium. VADG grants should supplement, not supplant, local programs.

### **Direct Grants to Victims**

Ensure victims' claims are considered without bias towards gender, age, race, ethnicity, etc.

Ensure awards are applied consistently based on clear and concise criteria.

Continue efforts to expedite and simplify the application process to reduce the time it takes to get funds to victims. Priority should be given to individual claims from victims.

The Legislature should consider increasing the OAG's authorized FTEs to allow them to hire permanent staff to expedite the claims process. This recommendation does not require additional employees, but allows the OAG to move some temporary employees to full-time status.

Continue to enhance training of OAG staff working with victims during the application process.

The Attorney General can extend the amount of time required to report a crime to police and the time to file an application for compensation. Ensure ample time is allowed for victims of domestic violence or sexual assault and for victims who are/were children at the time of the victimization.

The Legislature should consider increasing funding and access to mental health services for victims, particularly victims of domestic violence or sexual assault and children who witness domestic violence.

The OAG and the Legislative Budget Board should improve performance measures relating to the CVC Program to ensure adequate reporting measures are in place.

### **Court Cost Collections**

Include the Compensation to Victims of Crime fee in a consolidated court cost.

Support recommendations of the Senate Jurisprudence Committee to improve overall court cost collections including a consolidated court cost for criminal convictions and streamlining the reporting dates.

The Legislature should consider including a sunset provision for all state mandated court costs and fees.

The Legislature should revisit the OAG's authority to supervise collection of costs and failure to comply (Art. 56.59, Code of Criminal Procedure) to ensure the effectiveness of the statutory authority.

### **Crime Victims Services**

The Legislature should consider expanding the training opportunities for victims' advocates, service providers, law enforcement and other related professionals.

Ensure reimbursements for sexual assault exams are consistent across the state.

Programs funded through the CVC Fund (or other means of appropriation) should provide an adequate array of services to reach all victims regardless of age, gender, race, location of the state, etc. Ensure ample services for elderly and child victims and victims of sexual assault and domestic violence.

Include set performance measures and reporting requirements in all grants and contracts with service providers to ensure they are accountable and that CVC and other state funds are being used for their intended purpose.

### **Crime Victims' Rights**

Enforce Crime Victims' Rights as defined in the Texas Constitution and the Code of Criminal Procedure. Provide a legal remedy for a victim whose rights are violated including creation of an ombudsman that victims can contact if they feel their rights are violated.

Improve notification of sentencing hearings and plea agreement proceedings so victims can exercise their rights to give victim impact statements and seek restitution.

Protect a victim who chooses to participate in proceedings from losing their job - similar to jury duty.

### **Overall**

Continue efforts to increase public awareness about the direct assistance and services available for victims through CVC Funds.

The OAG and Crime Victims Institute should facilitate working groups of various interest parties including crime victims, law enforcement, victim advocates, and service providers to 1) identify gaps or duplication of services; 2) enhance direct grants to victims including larger award limits and expanded services; 3) improve training and education programs; and 4) enhance the collaboration and coordination of crime victim services; and 5) make recommendations to the Legislature.

